

**DETERMINATION AND FINDINGS**  
**FOR A**  
**SOLE SOURCE PROCUREMENT**

**CAPTION:** ES&S Voting Equipment – FY19  
**CONTRACTOR:** Election Systems & Software, LLC  
**PROGRAM AGENCY:** DC Board of Elections

**FINDINGS**

**1. AUTHORIZATION:**

D.C. OFFICIAL CODE §2–354.04, 27 DCMR 1304, 1700 and 1701

**2. MINIMUM NEED:**

The District of Columbia Board of Elections (BOE) has an immediate need to purchase (22) DS 200 Precinct Scanners & Wireless Modems; (32) ExpressVote Ballot Marking Devices; (32) ExpressVote BMD Kiosks from Elections Systems & Software, LLC (ES&S), to be used by all District voters and accessible to voters with physical, vision and literacy challenges. The goal of this purchase is to assist the District of Columbia in complying with the “American with Disabilities Act of 1990,” the “Help America Vote Act of 2002” and other District of Columbia laws and regulations.

**3. ESTIMATED REASONABLE COST:**

The anticipated cost of \$289,165.00 is fair and reasonable. This price includes equipment installation, 1-year hardware and software warranty, annual post-warranty hardware maintenance and support fees and annual post-warranty firmware license and maintenance support fees.

**4. FACTS WHICH JUSTIFY SOLE SOURCE PROCUREMENT:**

- A. From 2010 to 2016, the District of Columbia Board of Elections (BOE) purchased and used the DS Model M100 Precinct and tabulators and Model iVotronic, Direct Recording Electronic (DRE) voting machines, from Elections Systems & Software, (ES&S). In February 2016, The District of Columbia Board of Elections entered into a contract lease agreement with Elections Systems & Software, to upgrade the Express Vote touchscreen machines and the DS 200 Precinct scanners. The final option year of that contract expired on September 30, 2018. Since then, BOE has purchased its entire inventory of voting equipment.
- B. BOE has recognized a significant population growth, increased voter registrations and changes throughout the city. As such, BOE will need to accommodate the voters in the affected precincts by adding precincts and extra voting machines prior to the 2020 election cycle. BOE finds that it would be beneficial to increase the number of available DS200 Precinct Scanners with Wireless Modems and ExpressVote Ballot Marking Devices to accommodate the expected increase of voters during the 2020 Presidential election cycle. BOE hopes that the increase in

voting machines will alleviate long lines at the polling sites during the Early Voting period and on Election Day.

- C. Elections Systems & Software, (ES&S) is the sole-proprietor and owner of the ExpressVote, Universal Voting System. The ballot marking system is included as proprietary software within the ExpressVote Universal Voting System. In addition, the ballot tabulation system necessary for tallying all the votes recorded during an election must be able to communicate with the prescribed hardware which is orchestrated by Elections Systems & Software. To ensure accuracy of the ballot tabulation for each election, there must be complete compatibility between the ballots used, the equipment used to record the voter's choices and the system used for the ballot tabulation. The voting equipment, associated voting system products/supplies, and ballot tabulation software are all proprietary to Elections Systems & Software (ES&S).
- D. Market research was performed of certified voting systems and was determined that Elections Systems and Software, (ES&S) is the only vendor that owns and distributes the ExpressVote, Universal Voting System which is currently being used by the District of Columbia Board of Elections.

## **5. CERTIFICATION BY AGENCY HEAD:**

I hereby certify that the above findings are true, correct and complete.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Alice P. Miller  
Executive Director

## **6. CERTIFICATION BY THE CONTRACTING OFFICER**

I have reviewed the above findings and certify that they are sufficient to justify the use of the sole source method of procurement under the cited authority. I certify that the notice of intent to award a sole source contract was published in accordance with 27 DCMR 1304 and that [no response was received]. I recommend that the Chief Procurement Officer approve the use of the sole source procurement method for this proposed contract.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Alvin N. Stith  
Contracting Officer

## **7. DETERMINATION:**

Based on the above findings and in accordance with the cited authority, I hereby determine that it is not feasible or practical to invoke the competitive solicitation process under Section 402 or 403 of the District of Columbia Procurement Practices Reform Act 2010 (D.C. Law 18-371; (D.C. Official Code § 2-354.02 or 2-354.03). Accordingly, I determine that the District is justified in using the sole source method of procurement.

\_\_\_\_\_  
Date

\_\_\_\_\_  
George A. Schutter, III  
Chief Procurement Officer